

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

PAUL L. YACYK,

Plaintiff,

vs.

CIA,

Defendant.

Case No.: 2:23-cv-00848-GMN-BNW

**ORDER ADOPTING R&R AND  
DISMISSING CASE WITHOUT  
PREJUDICE**

Pending before the Court are two Report and Recommendations (“R&Rs”) of United States Magistrate Judge Brenda Weksler. The first R&R, (ECF No. 29), recommends dismissing the case without prejudice for failure to serve the summons and complaint within the allotted time. The second R&R, (ECF No. 31), recommends that Plaintiff’s Motion for Temporary Restraining Order, (ECF No. 15), be denied.<sup>1</sup> Plaintiff filed Objections to both R&Rs, (ECF Nos. 30, 34 respectively).

A party may file specific written objections to the findings and recommendations of a United States Magistrate Judge made pursuant to Local Rule IB 1-4. 28 U.S.C. § 636(b)(1)(B); D. Nev. R. IB 3-2. Upon the filing of such objections, the Court must make a *de novo* determination of those portions to which objections are made if the Magistrate Judge’s findings and recommendations concern matters that may not be finally determined by a magistrate judge. D. Nev. L. R. IB 3-2(b). The Court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the Magistrate Judge. 28 U.S.C. § 636(b)(1); D. Nev. L. R. IB 3-2(b).

As the Magistrate Judge noted, the Court, *sua sponte*, extended the time for Plaintiff to

<sup>1</sup> The second R&R also contained an Order from the Magistrate Judge that Plaintiff’s Motion to Expedite, (ECF No. 24), is denied as moot.

1 serve the summons and complaint twice, effectively granting Plaintiff an additional six months  
2 to comply with Rule 4. The Court also instructed Plaintiff how to serve an agency of the  
3 United States government pursuant to Rule 4(i). (Order Denying Mot. Default J. 3:7–23, ECF  
4 No. 14). Despite the Court’s leniency and direction, Plaintiff still failed to timely serve the  
5 CIA.

6 “[P]ro se litigants must follow the same rules of procedure that govern other litigants.”  
7 *Crain v. Mercedes Benz of USA*, No. 2:22-cv-00806-CDS-BNW, 2022 WL 16922075, at \*1 (D.  
8 Nev. Nov. 10, 2022) (quoting *King v. Atiyeh*, 814 F.2d 565, 567 (9th Cir. 1987), *overruled on*  
9 *other grounds by Lacey v. Maricopa Cnty.*, 693 F.3d 896 (9th Cir. 2012)). Plaintiff nonetheless  
10 argues that he did not know he must serve the U.S. Attorney for the District of Nevada and  
11 requests another extension so he may do so. (Obj. at 1, ECF No. 30). In the Court’s prior Order  
12 granting Plaintiff additional time to execute service, the Court explained that “Plaintiff must  
13 serve the United States *and* send a copy of the summons and complaint by registered or  
14 certified mail to the agency.” (Order Denying Mot. Default J. 3:9–10). The Court further  
15 delineated that to serve the United States, a party must deliver the summons and complaint “*to*  
16 *the U.S. attorney for the district where the action is brought*, to an assistant United States  
17 attorney or clerical employee whom the United States attorney designates in a writing filed  
18 with the court clerk, or to the civil-process clerk at the United States attorney’s office.” (*Id.*  
19 3:11–16) (emphasis added) (citing Fed. R. Civ. P. 4(i)(A)(i-ii). Thus, Plaintiff should have  
20 been on notice that he would need to deliver the summons and complaint to the U.S. Attorney  
21 for the District of Nevada. The Court therefore denies Plaintiff’s request for a third extension  
22 of time.<sup>2</sup>

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25 <sup>2</sup> Plaintiff argues that he has now served the United States by mailing a copy of the Complaint and Summons to the U.S. Attorney’s Office for the District of Nevada. (Obj. at 2, ECF No. 34); (Certificate of Service, ECF No. 35). Even if this service were timely, it is insufficient because Plaintiff has still failed to comply with the entirety of Rule 4(i)(1).

1 The Court adopts the first R&R and dismisses this case without prejudice. Because the  
2 Court dismisses this case, the second R&R and underlying Motion for Temporary Restraining  
3 Order are now moot.

4 Accordingly,

5 **IT IS HEREBY ORDERED** that the Report and Recommendation, (ECF No. 29), is  
6 **ACCEPTED and ADOPTED** in full.

7 **IT IS FURTHER ORDERED** that this case is **DISMISSED without prejudice.**

8 **IT IS FURTHER ORDERED** that the Report and Recommendation, (ECF No. 31), is  
9 **MOOT. IT IS FURTHER ORDERED** that the Motion for Temporary Restraining Order,  
10 (ECF No. 15), is **DENIED as moot.**

11 The Clerk of Court is instructed to close the case.

12 Dated this 22 day of May, 2024.

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16 Gloria M. Navarro, District Judge  
17 United States District Court  
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